THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.4237 of 2007

02-03-2007

Between:-

Smt. B. Nagu Bal

Petitioner

And

The State Bank of India,
Edi Bazar Branch,
Sadan X Roads, Hyderabad
Rep., by its Authorised Officer.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 4237 of 2007

Oral order:

The writ petition is misconceived.

The petitioner states to have borrowed a sum of Rs.8,21,400-00 on 11-07-2003 from the respondent-Bank for house construction. The petitioner mortgaged the property towards collateral security for the loan. Thereupon notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') was issued on 31-12-2004 specifying the amount due (Rs.9,64,058-00) and calling upon the petitioner to pay up within sixty (60) days from the date of notice under Section 13 (2) of the Act.

The petitioner did not lodge any objection to this

notice and also failed to pay the amount demanded. Thereupon, on 06-02-2006 under Section 13 (4) of the Act possession of the property was recorded to have been taken; and on

02-02-2007 under the Rules 8 (5) and (6) of the Security Interest (Enforcement) Rules, 2002 (for short 'the Rules') notice is issued to the petitioner that the property, which has been taken possession of, would be sold in public auction, in case the amount demanded in the notice under Section 13 (2) of the Act is not repaid within a period of thirty (30) days from the date of the notice. The petitioner states to have paid a sum of Rs.20,000-00 on 20-02-2007. On 26-02-2007 auction/sale notice was published prescribing the date of auction as 10-03-2007 at 03-00 P.M. The petitioner states that 'some breathing time should be given' to her to pay the entire amount within four months.

The secured asset has already been declared a non-performing asset under the provisions of the Act. All the due procedures were fulfilled including issuing the notice under Section 13 (2) of the Act, taking possession of the secured asset under Section 13 (4) of the Act and issuance of notice under Rules 8(5) and (6) of the Rules proposing to sell the property, if the amount is not paid within thirty (30) days. As there was default in payment of the amount due, the respondent-bank is taking steps under the provisions of the Act legitimately. This court has

no legal authority to interdict the lawful steps taken by the respondent-bank under the provisions of the Act. The economic straits of the petitioner do not constitute a legal justification for interfering with the due process of law.

On the aforesaid analysis, no relief could be granted in the writ petition. The writ petition is accordingly dismissed, at the stage of admission. No costs.

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GODA RAGHURAM, J

Dated:02-03-2007
Pvks/*

Nb:- Furnish c.c.in two days.
B/o pvks/*